

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 263

AN ACT to amend the Indiana Code concerning education.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 11-10-5-5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: **Sec. 5. (a) Notwithstanding IC 22-2-5-2, the correctional institution and:**

(1) an employee if there is no representative described under subdivision (2) or (3) for that employee;  
(2) the exclusive representative of its certificated employees with respect to those employees; or  
(3) a labor organization representing its noncertificated employees with respect to those employees;  
may agree in writing to a wage payment arrangement.

(b) A wage payment arrangement under subsection (a) may provide that compensation earned during a school year may be paid:

- (1) using equal installments or any other method; and
- (2) over:
  - (A) all or part of that school year; or
  - (B) any other period that begins not earlier than the first day of that school year and ends not later than thirteen (13) months after the wage payment arrangement period begins.



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Such an arrangement may provide that compensation earned in a calendar year is paid in the next calendar year, so long as all the compensation is paid within the thirteen (13) month period beginning with the first day of the school year.

(c) A wage payment arrangement under subsection (a) must be structured in such a manner so that it is not considered:

- (1) a nonqualified deferred compensation plan for purposes of Section 409A of the Internal Revenue Code; or
- (2) deferred compensation for purposes of Section 457(f) of the Internal Revenue Code.

(d) Absent an agreement under subsection (a), the correctional institution remains subject to IC 22-2-5-1.

(e) Wage payments required under a wage payment arrangement entered into under subsection (a) are enforceable under IC 22-2-5-2.

(f) If an employee leaves employment for any reason, either permanently or temporarily, the amount due the employee under IC 22-2-5-1 and IC 22-2-9-2 is the total amount of the wages earned and unpaid.

(g) Employment with the correctional institution may not be conditioned upon the acceptance of a wage payment arrangement under subsection (a).

(h) An employee may revoke a wage payment arrangement under subsection (a) at the beginning of each school year.

SECTION 2. IC 12-24-3-5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Notwithstanding IC 22-2-5-2, the state institution and:

- (1) an employee if there is no representative described under subdivision (2) or (3) for that employee;
- (2) the exclusive representative of its certificated employees with respect to those employees; or
- (3) a labor organization representing its noncertificated employees with respect to those employees;

may agree in writing to a wage payment arrangement.

(b) A wage payment arrangement under subsection (a) may provide that compensation earned during a school year may be paid:

- (1) using equal installments or any other method; and
- (2) over:
  - (A) all or part of that school year; or
  - (B) any other period that begins not earlier than the first

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day of that school year and ends not later than thirteen (13) months after the wage payment arrangement period begins.

Such an arrangement may provide that compensation earned in a calendar year is paid in the next calendar year, so long as all the compensation is paid within the thirteen (13) month period beginning with the first day of the school year.

(c) A wage payment arrangement under subsection (a) must be structured in such a manner so that it is not considered:

(1) a nonqualified deferred compensation plan for purposes of Section 409A of the Internal Revenue Code; or

(2) deferred compensation for purposes of Section 457(f) of the Internal Revenue Code.

(d) Absent an agreement under subsection (a), the state institution remains subject to IC 22-2-5-1.

(e) Wage payments required under a wage payment arrangement entered into under subsection (a) are enforceable under IC 22-2-5-2.

(f) If an employee leaves employment for any reason, either permanently or temporarily, the amount due the employee under IC 22-2-5-1 and IC 22-2-9-2 is the total amount of the wages earned and unpaid.

(g) Employment with the state institution may not be conditioned upon the acceptance of a wage payment arrangement under subsection (a).

(h) An employee may revoke a wage payment arrangement under subsection (a) at the beginning of each school year.

SECTION 3. IC 16-33-4-23 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 23. (a) Notwithstanding IC 22-2-5-2, the home and:

(1) an employee if there is no representative described under subdivision (2) or (3) for that employee;

(2) the exclusive representative of its certificated employees with respect to those employees; or

(3) a labor organization representing its noncertificated employees with respect to those employees;

may agree in writing to a wage payment arrangement.

(b) A wage payment arrangement under subsection (a) may provide that compensation earned during a school year may be paid:

(1) using equal installments or any other method; and

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- (A) all or part of that school year; or
- (B) any other period that begins not earlier than the first day of that school year and ends not later than thirteen (13) months after the wage payment arrangement period begins.

Such an arrangement may provide that compensation earned in a calendar year is paid in the next calendar year, so long as all the compensation is paid within the thirteen (13) month period beginning with the first day of the school year.

(c) A wage payment arrangement under subsection (a) must be structured in such a manner so that it is not considered:

- (1) a nonqualified deferred compensation plan for purposes of Section 409A of the Internal Revenue Code; or
- (2) deferred compensation for purposes of Section 457(f) of the Internal Revenue Code.

(d) Absent an agreement under subsection (a), the home remains subject to IC 22-2-5-1.

(e) Wage payments required under a wage payment arrangement entered into under subsection (a) are enforceable under IC 22-2-5-2.

(f) If an employee leaves employment for any reason, either permanently or temporarily, the amount due the employee under IC 22-2-5-1 and IC 22-2-9-2 is the total amount of the wages earned and unpaid.

(g) Employment with the home may not be conditioned upon the acceptance of a wage payment arrangement under subsection (a).

(h) An employee may revoke a wage payment arrangement under subsection (a) at the beginning of each school year.

SECTION 4. IC 20-21-4-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Notwithstanding IC 22-2-5-2, the school and:

- (1) an employee if there is no representative described under subdivision (2) or (3) for that employee;
- (2) the exclusive representative of its certificated employees with respect to those employees; or
- (3) a labor organization representing its noncertificated employees with respect to those employees;

may agree in writing to a wage payment arrangement.

(b) A wage payment arrangement under subsection (a) may provide that compensation earned during a school year may be paid:

- (1) using equal installments or any other method; and

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**(2) over:**

- (A) all or part of that school year; or**
- (B) any other period that begins not earlier than the first day of that school year and ends not later than thirteen (13) months after the wage payment arrangement period begins.**

Such an arrangement may provide that compensation earned in a calendar year is paid in the next calendar year, so long as all the compensation is paid within the thirteen (13) month period beginning with the first day of the school year.

**(c) A wage payment arrangement under subsection (a) must be structured in such a manner so that it is not considered:**

- (1) a nonqualified deferred compensation plan for purposes of Section 409A of the Internal Revenue Code; or**
- (2) deferred compensation for purposes of Section 457(f) of the Internal Revenue Code.**

**(d) Absent an agreement under subsection (a), the school remains subject to IC 22-2-5-1.**

**(e) Wage payments required under a wage payment arrangement entered into under subsection (a) are enforceable under IC 22-2-5-2.**

**(f) If an employee leaves employment for any reason, either permanently or temporarily, the amount due the employee under IC 22-2-5-1 and IC 22-2-9-2 is the total amount of the wages earned and unpaid.**

**(g) Employment with the school may not be conditioned upon the acceptance of a wage payment arrangement under subsection (a).**

**(h) An employee may revoke a wage payment arrangement under subsection (a) at the beginning of each school year.**

SECTION 5. IC 20-22-4-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Notwithstanding IC 22-2-5-2, the school and:

- (1) an employee if there is no representative described under subdivision (2) or (3) for that employee;**
- (2) the exclusive representative of its certificated employees with respect to those employees; or**
- (3) a labor organization representing its noncertificated employees with respect to those employees;**

**may agree in writing to a wage payment arrangement.**

**(b) A wage payment arrangement under subsection (a) may provide that compensation earned during a school year may be**

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**paid:**

- (1) using equal installments or any other method; and**
- (2) over:**
  - (A) all or part of that school year; or**
  - (B) any other period that begins not earlier than the first day of that school year and ends not later than thirteen (13) months after the wage payment arrangement period begins.**

Such an arrangement may provide that compensation earned in a calendar year is paid in the next calendar year, so long as all the compensation is paid within the thirteen (13) month period beginning with the first day of the school year.

**(c) A wage payment arrangement under subsection (a) must be structured in such a manner so that it is not considered:**

- (1) a nonqualified deferred compensation plan for purposes of Section 409A of the Internal Revenue Code; or**
- (2) deferred compensation for purposes of Section 457(f) of the Internal Revenue Code.**

**(d) Absent an agreement under subsection (a), the school remains subject to IC 22-2-5-1.**

**(e) Wage payments required under a wage payment arrangement entered into under subsection (a) are enforceable under IC 22-2-5-2.**

**(f) If an employee leaves employment for any reason, either permanently or temporarily, the amount due the employee under IC 22-2-5-1 and IC 22-2-9-2 is the total amount of the wages earned and unpaid.**

**(g) Employment with the school may not be conditioned upon the acceptance of a wage payment arrangement under subsection (a).**

**(h) An employee may revoke a wage payment arrangement under subsection (a) at the beginning of each school year.**

**SECTION 6. IC 20-26-5-32.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 32.2. (a) Notwithstanding IC 22-2-5-1, a school corporation and:**

- (1) an employee if there is no representative described under subdivision (2) or (3) for that employee;**
- (2) the exclusive representative of its certificated employees with respect to those employees; or**
- (3) a labor organization representing its noncertificated employees with respect to those employees;**

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may agree in writing to a wage payment arrangement.

(b) A wage payment arrangement under subsection (a) may provide that compensation earned during a school year may be paid:

- (1) using equal installments or any other method; and
- (2) over:
  - (A) all or part of that school year; or
  - (B) any other period that begins not earlier than the first day of that school year and ends not later than thirteen (13) months after the wage payment arrangement period begins.

Such an arrangement may provide that compensation earned in a calendar year is paid in the next calendar year, so long as all the compensation is paid within the thirteen (13) month period beginning with the first day of the school year.

(c) A wage payment arrangement under subsection (a) must be structured in such a manner so that it is not considered:

- (1) a nonqualified deferred compensation plan for purposes of Section 409A of the Internal Revenue Code; or
- (2) deferred compensation for purposes of Section 457(f) of the Internal Revenue Code.

(d) Absent an agreement under subsection (a), a school corporation remains subject to IC 22-2-5-1.

(e) Wage payments required under a wage payment arrangement entered into under subsection (a) are enforceable under IC 22-2-5-2.

(f) If an employee leaves employment for any reason, either permanently or temporarily, the amount due the employee under IC 22-2-5-1 and IC 22-2-9-2 is the total amount of wages earned and unpaid.

(g) Employment with a school corporation may not be conditioned upon the acceptance of a wage payment arrangement under subsection (a).

(h) An employee may revoke a wage payment arrangement under subsection (a) at the beginning of each school year.

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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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SEA 263 — Concur+

